



REMARKS

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe the subject matter which applicant regards as the invention.

Claims 1 and 3-6 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,543,637 to Osborn (hereinafter Osborn) in view of U.S. Patent 6,396,925 to Close (hereinafter Close). For the following reasons, the Examiner's rejection is traversed.

Osborn discloses an adapter for adapting a conventional cup holder to hold a wide arrangement of containers. The adapter also provides for a removable insert which can be used to further adapt the adapter to accommodate various container sizes. The lower body portion of the insert may include one or more elongate slots which extend upwardly from lower edge so as to form a compressible body portion. A rib may extend along the free edges of elongate slots to reinforce the cylindrical wall. The adapter also may optionally include elongate slots which extend upwardly from a lower edge to form a compressible lower body portion.

Close discloses a cellular phone holding device having a cylindrical body, with an outer diameter at least as large as the inner diameter of a vehicle beverage holder, a cavity defined therein to frictionally hold a cellular phone and a weighted bottom portion.

Regarding claim 1, even if the references were combined in the manner proposed by the Examiner, the present invention would not result. The references

individually, or in combination, do not teach or suggest an open topped outer member and an open topped inner member wherein the outer member is adapted to receive a phone having a first size and the inner member is adapted to receive a phone having a second size, as required. Osborn does not teach or suggest any adapter for receiving phones. Close teaches only an inner holding member that receives a phone. Although the outer member taught by Close, which is simply a known beverage holder, receives the inner member taught by Close, the outer member does not receive a phone having a second size.

Further, the references alone, or in combination, do not teach or suggest "inner and outer members [that] include a front wall that has an elongated opening through which a front of said phone is visible", as required. Osborn teaches slots through which a cup handle may be placed, but does not suggest use with cell phones, and thus, not openings through which a phone would be visible. The Examiner states that Close plainly teaches that cup holders are and can be adapted to be used with phones. This is true, however, the manner in which Close teaches adapting cup holders teaches away from the claimed invention. Close teaches placing a phone holding device into a known vehicle cup holder. However, Close does not teach a holding device that includes an elongated opening through which the front of a phone is visible. Close teaches a solid cell phone holder. Thus, when a phone held within a holder taught by Close is then placed into a beverage container holder (or beverage container adapter) including an elongated opening, the front of the phone is not visible through the beverage container holder (or adapter) opening because the front is covered by the holder taught by Close. As a result the combination of Osborn and Close does not

teach or suggest inner and outer members that each include a front wall that has an elongated opening through which a front of a phone is visible.

Reconsideration of the rejection of claim 1 is respectfully requested.

Regarding claim 3, even if the references were combined in the manner proposed by the Examiner, the present invention would not result. The references individually, or a combination thereof, do not teach or suggest inner and outer members of a phone holder that include a bottom wall that has an opening through which a power cord extends, as required. Osborn does not teach or suggest a phone holder. And although Close teaches that cup holders can be adapted to be used with phones, the manner in which Close teaches adapting cup holders teaches away from the claimed invention. Close teaches a phone holding device that does not include a bottom wall that has an opening. Figs. 5 and 6 of Close teach an electrical contact on a phone holding device, but not an opening. When a phone held within a holder taught by Close is then placed into a beverage container (or beverage container adapter) including an open bottom, the bottom is closed and no power cord is able to extend through the bottom as required. Thus, the combination does not teach or suggest a phone holder with an inner and outer member with a bottom wall that has an opening through which a power cord extends. Reconsideration and withdrawal of the rejection of claim 3 is respectfully requested.

Regarding claim 4, even if the references were combined in the manner proposed by the Examiner, the present invention would not result. The references individually, or a combination thereof, do not teach or suggest a phone holder with an inner member that includes outwardly extending ears that are snap fit through openings

in an outer member as required. Osborn teaches a friction fit between an outer member and an inner member. Close also teaches a friction fit between a holding device and a beverage holder. Neither reference teaches outwardly extending ears on the inner member or openings on the outer member. Thus, reconsideration and withdrawal of the rejection of claim 4 is respectfully requested.

Regarding claim 5, even if the references were combined in the manner proposed by the Examiner, the present invention would not result. Neither the references individually, nor a combination thereof teach a phone holder with an inner member having a bottom wall that includes alignment ribs that extend into slots formed in the bottom wall of an outer member, as required. Osborn teaches ribs used for reinforcement on an adapter that is flexible and adjustable due to a number of vertical slots included therein. The ribs provide some resiliency to the adapter but do not function to align the adapter within a cup holder. Close teaches a holding member with a smooth bottom or a holding member with electrical contacts on the bottom. Neither reference teaches alignment ribs on an inner member that extend into slots formed on an outer member. Thus, reconsideration and withdrawal of the rejection of claim 5 is respectfully requested.

Claim 6 depends from claim 5, which is believed to be allowable for the reasons stated above. Reconsideration and withdrawal of the rejection of claim 6 is respectfully requested.

Claims 7-14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Osborn in view of Close and further in view of U.S. Patent 5,848,820 to Hecht (hereinafter Hecht). For the following reasons, the Examiner's rejection is traversed.

Hecht discloses a pivotable rear seat center cushion assembly with a utility compartment. The utility compartment includes a cupholder that is pivotally connected within the utility compartment for movement between a stored position, and a use position in which the cupholder is suspended above, or rests against a user surface of a pivotable tray which is also part of the utility compartment. Hecht discloses a phone held within the center cushion, below the location of the cupholder and pivotable tray.

Regarding amended claim 7, even if the references were combined in the manner proposed by the Examiner, the present invention would not result. Neither Hecht, nor the combination of Osborn, Close and Hecht teach or suggest "a panel assembly pivotally movable between a closed position and an open position wherein said panel assembly is disposed generally vertically when said panel assembly is in a closed position", as required. Hecht teaches a seat cushion 22 that is movable between open and closed positions, and further teaches a cupholder 36 that is movable between vertical and horizontal positions. However, the cupholder itself is not movable between open and closed positions. The cupholder can be considered closed only when the seat cushion is closed and open when the seat cushion is open. Thus, the cupholder is not a "panel assembly [that] is disposed generally vertically when said panel assembly is in a closed position." The seat cushion itself is disposed generally horizontally when in a closed position, so the seat cushion also does not meet the requirements of the panel of claim 7. Neither Osborn, nor Close cure the deficiencies of Hecht because Osborn and Close do not disclose movable panels.

Further, Hecht does not cure any of the deficiencies of the proposed combination of Osborn and Close described above with respect to claims 1 and 3-6.

Claim 7, like claim 1, requires an open topped outer member and an open topped inner member wherein the outer member is adapted to receive a phone having a first size and the inner member is adapted to receive a phone having a second size. As stated in the discussion regarding claim 1, Osborn or Close, alone or in combination do not teach or suggest both an outer member and an inner member, adapted to receive phones of different sizes. Hecht does nothing to cure this deficiency as Hecht does not teach or suggest outer and inner members adapted to receive phones of different sizes. Reconsideration and withdrawal of the rejection of claim 7 is respectfully requested.

Regarding claim 8, even if the references were combined in the manner proposed by the Examiner, the present invention would not result. Claim 8 requires a phone holding assembly wherein an outer member includes a series of mounting tabs that are releasably secured within openings in a panel assembly. Hecht teaches a cupholder and tray, however, the cupholder does not include any openings except those into which beverage containers may be placed. The tray does not include any openings. Further, none of the cited references, nor the combination thereof teach or suggest mounting tabs on an outer member, as required. As previously stated, Osborn and Close teach elements that are held by friction within holders. Thus, the proposed combination does not teach openings into which mounting tabs may be secured. Reconsideration and withdrawal of the rejection of claim 8 is respectfully requested.

Regarding claim 9, as previously stated with regard to claim 1, the Close reference teaches away from a phone holding assembly having inner and outer members, each having a front wall that has an elongated opening through which a front

of a phone is visible. Osborn teaches slots through which a cup handle may be placed, but does not suggest use with cell phones, and thus, not openings through which a phone would be visible. Close teaches placing a phone holding device into a known vehicle cup holder. However, Close does not teach a holding device that includes an elongated opening through which the front of a phone is visible. Close teaches a solid cell phone holder. Thus, when a phone held within a holder taught by Close is then placed into a beverage container holder (or beverage container adapter) including an elongated opening, the front of the phone is not visible through the beverage container holder (or adapter) opening because the front is covered by the holder taught by Close. As a result the combination of Osborn and Close does not teach or suggest inner and outer members that include a front wall that has an elongated opening through which a front of a phone is visible. Hecht does not teach any adapter for receiving phones that includes a front wall having an elongated opening through which a front of a phone is visible and does not teach toward the claimed invention. Thus, the combination of Osborn, Close and Hecht does not teach or suggest inner and outer members that include a front wall that has an elongated opening through which a front of a phone is visible. Reconsideration and withdrawal of the rejection of claim 9 is respectfully requested.

Claim 10, like claim 3, requires inner and outer members that include a bottom wall that has an opening through which a power cord of a phone extends. Osborn does not teach or suggest a phone holder. And although Close teaches that cup holders can be adapted to be used with phones, the manner in which Close teaches adapting cup holders teaches away from the claimed invention. Close teaches a phone holding

device that does not include a bottom wall that has an opening. Thus, when a phone held within a holder taught by Close is then placed into a beverage container holder (or beverage container adapter) including an open bottom, the bottom is closed and no power cord is able to extend through the bottom as required. Hecht does not teach any adapter for receiving phones that includes an open bottom and so, does not teach toward the claimed invention. Reconsideration and withdrawal of the rejection of claim 10 is respectfully requested.

Claim 11, like claim 4, requires an inner member having outwardly extending ears that are snap fit through openings in an outer member. Osborn teaches a friction fit between an outer member and an inner member. Close also teaches a friction fit between the holding device and the beverage holder. Neither reference teaches outwardly extending ears or corresponding openings. Hecht does nothing to cure this deficiency as Hecht does not teach or suggest any adapter utilizing ears or openings. Reconsideration and withdrawal of the rejection of claim 11 is respectfully requested.

Claim 12, like claim 5, requires an inner member with a bottom wall that includes alignment ribs that extend into slots formed in the bottom wall of an outer member. Osborn teaches ribs used for reinforcement on an adapter that is flexible and adjustable due to a number of vertical slots included therein. The ribs provide some resiliency to the adapter but do not function to align the adapter within a cup holder. Close teaches a holding member with a smooth bottom or a holding member with electrical contacts on the bottom. Neither reference teaches alignment ribs. Hecht does nothing to cure this deficiency as Hecht does not teach or suggest any adapter utilizing alignment ribs. Thus, reconsideration and withdrawal of the rejection of claim 12 is respectfully

requested.

Claim 13 depends from claim 12, which is believed to be allowable for the reasons stated above. Reconsideration and withdrawal of the rejection of claim 13 is respectfully requested.

Claim 14 depends from claim 7, which is believed to be allowable for the reasons stated above. Reconsideration and withdrawal of the rejection of claim 14 is respectfully requested.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 18-0160, our Order No. HRA-12807.

Respectfully submitted,

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